



September 17, 2021

**VIA ECF**

The Honorable P. Kevin Castel  
United States District Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St.  
New York, New York 10007

Re: *In re Google Digital Advertising*, 1:21-md-03010 (PKC); *State of Texas, et al. v. Google LLC*, No. 1:21-cv-06841 (PKC)

Dear Judge Castel:

Per this Court's September 7, 2021 Order (ECF No. 61) in the above-referenced MDL, we briefly write on behalf of the Plaintiff States regarding the Court's request to show cause as to "why the Second Amended Complaint [SAC] ought not be publicly filed in unredacted form." Pursuant to the Court's Individual Practices, we note that an initial conference in this MDL has been scheduled for Friday, September 24, 2021.

Before publicly filing the SAC in the Eastern District of Texas, the Plaintiff States applied redactions where the underlying information emanated directly from material produced to the States under a "highly confidential" or "confidential" designation. But now that this case is in the Second Circuit, such information should be made public in the absence of "specific, on-the-record findings that sealing is necessary to preserve higher values." *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 124 (2d Cir. 2006). Here, the mere fact that a party or third party unilaterally applies a confidentiality designation is insufficient to meet this standard, particularly because Google broadly designated *everything* in its productions to the States "highly confidential" (while Facebook similarly designated everything either "confidential" or "highly confidential").

So, while the Court requested the parties to show cause as to why the SAC should *not* be publicly filed, the Plaintiff States wish to make their position known that under relevant Second Circuit authority (*e.g.*, *Lugosch*, 435 F.3d 110; Order on Sealing, *In re SunEdison, Inc. Sec. Litig.*, 16-CV-7917 (PKC), 2019 WL 12043498 (S.D.N.Y. Sept. 25, 2019)), the Plaintiff States do not object to the SAC (ECF No. 81) being publicly filed in unredacted form.

To the extent the Court desires additional briefing on the subject, the Plaintiff States will comply promptly.

Respectfully submitted,

/s/ W. Mark Lanier

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*Submitted on behalf of all Plaintiff States*

CC: Counsel of Record